

SUBCHAPTER B—LAW AND ORDER

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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 2417, 2453, and 2802.

SOURCE: 61 FR 34374, July 2, 1996, unless otherwise noted.

§10.1 Why are policies and standards needed for Indian country detention programs?

Policies and standards are required to ensure that all Bureau of Indian Affairs (BIA) and tribal entities that receive Federal funding for the operation, maintenance, design and construction or renovation of detention facilities, community residential, or

holding facilities are supporting constitutional rights and are complying with the Indian Law Enforcement Reform Act of 1990. Self-governance tribes and tribes with limited jurisdiction are encouraged to follow the regulations in this part, and other BIA manuals and handbooks. The provision for funding tribes for detention programs under the Indian Alcohol and Substance Abuse Prevention and Treatment Act, Public Law 99-570, (25 U.S.C. 2453) requires standards and procedures for such facilities.

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§10.2 Who is responsible for developing and maintaining the policies and standards for detention and holding facilities in Indian country?

The Director, Office of Law Enforcement Services who reports to the Deputy Commissioner of Indian Affairs, BIA, establishes policies, procedures, and standards for the operations, design, planning, maintenance, renovation, and construction of detention programs in the BIA and by tribal contract under Indian Self-Determination and Education Assistance Act, Public Law 93-638, as amended, 25 U.S.C. 450.

§10.3 Who must follow these policies and standards?

You must follow these minimum policies, standards, and guides if you are part of the BIA or tribal detention or rehabilitation program receiving Federal funding. Self-governance tribes and tribes with limited jurisdiction are encouraged to follow the regulations in this part, and other BIA manuals and handbooks. Detention officers, guards, cooks and other staff conducting business in the facilities must meet minimum standards of law enforcement personnel as prescribed in 25 CFR part 12, subpart D, "Qualifications and Training Requirements." Those tribal programs not receiving Federal funding under the Indian Self-Determination and Education Assistance Act (Public Law 93-638, as amended) who wish to be accredited are encouraged to use the policies and standards in that part

since they have been modified and approved for Indian country.

§ 10.4 What happens if the policies and standards are not followed?

The risk for human and civil rights violations due to lack of common standards will subject the operation and/or facility to unnecessary exposure to liability. Lack of employee standards, particularly for training and background checks, will increase the risk of misconduct and vicarious liability of the tribes and the Federal government through tort claims. Funding sources for detention programs may become scarce to nonexistent because of contract noncompliance. The tribes' opportunity to receive funding from potential resource sharing agreements with other law enforcement agencies may be damaged because the facility may have to be closed for cause due to violation of the life safety codes.

§ 10.5 Where can I find the policies and standards for the administration, operation, services, and physical plant/construction of Indian country detention, community residential, and holding facilities?

The Bureau of Indian Affairs, Department of the Interior, maintains a manual of policies and procedures called the *Bureau of Indian Affairs Manual (BIAM)*. The Chapter 69 BIAM titled "Indian Country Detention Facilities and Programs," contains the BIA's policies, procedures, and standards for detention and holding programs in Indian country. The standards for the programs within the BIAM are in handbook format for easy field reference and use. Copies of the Chapter 69 BIAM and handbooks may be obtained from the Director, Office of Law Enforcement Services.

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§ 10.6 How is the BIA assured that the policies and standards are being applied uniformly and facilities are properly accredited?

The tribes and BIA programs will use a phased approach to meeting all non-mandatory detention standards and will document progress on uniform reporting. The BIA Office of Law Enforcement Services will conduct periodic

operational evaluations for oversight.

§ 10.7 Where do I find help or receive technical assistance in complying with the policies and standards?

The BIA has a trained Detention Specialist on the staff of the Office of Law Enforcement Services, Albuquerque, New Mexico, who is available to conduct evaluations and provide technical assistance or guidance in all facets of Indian country detention programs.

§ 10.8 What minimum records must be kept and reports made at each detention, community residential, or holding facility in Indian country?

The Director, Office of Law Enforcement Services, BIA, will develop all necessary requirements for maintaining records, reporting data, and archiving information. These requirements will be published in 69 BIAM, "Indian Country Detention Facilities and Programs."

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§ 10.9 If a person is detained or incarcerated in an Indian country detention, community residential, or holding facility, how would they know what their rights, privileges, safety, protection and expected behavior would be?

When an individual is incarcerated in an Indian country detention, community residential, or holding facility, he/she will be given, or in some cases notified of the availability of, an Inmate Handbook. This book of guidelines describes in detail the inmate's rights, privileges, protection and safety, cleanliness and sanitation, and general health and nutritional standards. The Inmate Handbook describes the emergency evacuation procedures, medical, counseling, rehabilitation services, visitation procedures, and other appropriate information. The Inmate Handbook is published by the Director, Office of Law Enforcement Services and maintained by the detention facility administrator at each facility location.

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§ 10.10 What happens if I believe my civil rights have been violated while incarcerated in an Indian country detention or holding facility?

All allegations of civil rights violations must be reported immediately to the Internal Affairs Branch of the Office of Law Enforcement Services. This office will ensure that such allegations are immediately reported to the Civil Rights Division of the U.S. Department of Justice through established procedures. The BIA Internal Affairs Branch may also investigate alleged violations and make recommendations for additional action as necessary. Detailed instructions on the procedure to report violations can be found in the Inmate Handbook.

§ 10.11 How would someone detained or incarcerated, or their representative, get the BIA policies and standards?

At each detention, community residential, or holding facility located in a tribal jurisdiction where federal funds are used for operations or maintenance programs, the BIA's policies, standards, and procedures will be made available upon request. The Inmate Handbook will be made available to all persons at the time they are incarcerated or detained in a facility. There may be times when this may be delayed due to the physical or mental condition of the person at time of incarceration. In these cases, the Inmate Handbook will be made available when the person is deemed receptive and cognizant by the detention officer in charge. All policies, standards, procedures, and guidelines are available at each facility to the public or by writing to the Director, Office of Law Enforcement Services.

[61 FR 34374, July 2, 1996; 61 FR 65473, Dec. 13, 1996]

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